HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting)

(Chapter VIII Rule 32 (2)(b)

Description of the case.

W.P. No.684 of 2001 (SS)

Smt. Shashi Bhatt & others vs. B.S.A. and another

Approved for reporting.

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~~Not approved for reporting~~

Date of decision. 12.11.2003

Initial of Judge

HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 684 of 2001
(Old No. 14492/2000)

1. Smt. Shashi Bhatt
2. Smt. Kamla Negi
3. Smt. Usha Jhinkwan ……. Petitioners

Versus

1. Basic Shiksha Parishad, Allahabad
2. Basic Shiksha Adhikari, Chamoli …..…….. Respondents

Sri Rajendra Dobhal, Advocate for the petitioners
Sri H.M. Raturi for the respondents.

Dated: 12.11.2003

Hon'ble Rajesh Tandon, J.

By the present writ petition the petitioners have prayed for the issue of a writ, order or directions in the nature of certiorari quashing the orders dated 29.2.2000, passed by respondent no.2 annexure 3, 4 and 5 to the writ petition.

Brief facts giving rise to the present writ petition are that petitioner are working as Head Mistress in Primary Schools, Pursari (Dasholi), Nail Kudao and Chhinka (Dasoli) run by the Basic Shiksha Parishad. It has been stated by the petitioners that they were transferred to Primary School Gopeshwar, Kund and Alkapuri vide order dated 7.7.19099 passed by the respondent no.2. In compliance of transfer orders they were relieved and they joined their new place

of posting. It has been stated by the petitioners that respondent no.2 passed another order on 29.2.2000 by which after modifying his earlier order dated 7.7.1999, the place of posting of petitioner no.1 was changed from Gopeshwar to Aghala. The place of posting of petitioner no.2 was modified from Kund to Primary School Nail Kudao and petitioner no.3 was transferred to Primary School Chhinka from Alkapuri.

The petitioners have further stated that by the order dated 7.7.1999 the petitioner no.1 was transferred from Primary School Pursari to Primary School Gopeshwar where Smt. Usha Bhatt had been working as Head Mistress, the said Smt. Usha Bhatt was transferred from Primary School Gopeshwar (Dasholi) to Primary School Chatoli, petitioner no.2 was transferred from Primary School Nail Kundao to Primary School Kund , where Smt. Munni Rawat had been working as Head Mistress, the said Smt. Munni Rawat was transferred to Primary School Kucher and the petitioner no.3 was transferred from Primary School Chhinka to Primary Schol Alkahori where Smt. Satyawati Rawat had been working as Head Mistress and said Smt. Satyawati Rawat was transferred to Primary School Agthala.

Smt. Usha Bhatt, Smt. Munni Rawat and Smt. Satyawati Rawat filed a writ petition No. 31726 of 1999 before the Allahabad High Court challenging the impugned order of transfer dated 7.7.1999

Hon'ble Mr. Justice M. Katju was pleased to pass the following order on 30.7.1999:

"Till 20th September 1999 the operation of the impugned orders dated 7th July 1999, so far as the petitioners are concerned shall remain stayed."

Aforesaid order has become infructuous in as much as the petitioners have already joined at there respective places to transfer.

By the present writ petition the petitioners have challenged the subsequent order dated 29.2.2000. Following order was passed by Hon'ble Mr. Justice R.K. Agarwal, on 3.4.2000, at the time of admission of the writ petition:

"Put up on 10.4.2000 when other matters being listed. Till 10.4.2000 operation of the order dated 29.2.2000 filed as annexure 3,4 and 5 in so far as it relates to the petitioners shall remain stayed."

Normally in the matter of transfer no interference under Article 226 of the Constitution of India can be made in view of the observations of Apex Court in the case Shilpi Bose and others vs. State of Bihar and others, AIR 1991 SC 532.

However, in the present case transfer order dated 7.7.1999 having been revoked by the respondent no.2 on 29.2.2000, when the petitioners have already joined their new places of posting.

A perusal of the order cancelling the transfers to the petitioners shows that it was passed without application of mind. Neither administrative exigency nor any public interest has been shown in the order and as such the order cancelling the transfer orders cannot be sustained.

Since the petitioners have already joined at their respective places of posting and two years have already expired, no fruitful purpose will be served by complying the orders dated 29.2.2000, therefore, orders passed on 29.2.2000 so far as it relates to the petitioners are quashed.

However, it will be open for the respondents to pass fresh orders if respondents consider that the transfer of the petitioners is required at any moment on the administrative exigency or for any other reasons.

With the aforesaid observations the writ petition is disposed of.

12.11.2003 **(Rajesh Tandon, J.)**

Dhyani